

ARTICLE 35

REDUCTION-IN-FORCE

1. Policy: The agency will follow procedures articulated in Title 5, Code of Federal Regulations, Section 351.

- a. The decision to conduct a reduction-in-force (RIF) is a Management right. The implementation of a RIF will be administered by Management.
- b. In accordance with U.S. Office of Personnel Management (OPM) guidelines, Management may consider retraining the employee or modifying qualification standards, excluding positive education requirements, to allow the employee to meet the qualifications of a vacant position within a specified period up to 365 days of occupying the position.
- c. Government placement programs: Management will offer identified employees enrollment in and an explanation of placement assistance programs that are operated by other agencies, for which they are qualified, including:
 - (1) The Interagency Career Transition Plan (ICTAP) for permanent employees in surplus positions administered by OPM and other governmentwide programs.
 - (2) The U.S. Department of Agriculture (USDA) Reemployment Priority List and Career Transition Assistance Plan.
 - (3) The Department of Labor Workforce Investment Act of 1998 (Public Law 105-220) programs.

- d. Outplacement services: Outplacement services for identified employees, consistent with the Agency's Career Transition Assistance Program policy, may be negotiated at the appropriate level.
- e. Management will follow Forest Service Handbook (FSH 6109.41) and Departmental Personnel Manual (DPM) 351 procedures in processing RIFs.

2. Notice:

- a. Management will notify the appropriate level of the Union and give them a copy of the request for approval for RIF. This notification will be given at least 75 days prior to the effective date and takes the place of notification described under Article 11. Predecisional input regarding changes to the organization (which may be the basis for the RIF) consistent with Article 11 will still apply. The 75-day notification will include name, title, series, and grade of employees affected; efforts that have been taken to avoid the RIF; and expected outcomes of the RIF. Retention Registers will be made available to the Union as soon as they are developed, which will be at least 60 days prior to the effective date.
- b. Sixty days prior to the RIF effective date, Management shall provide the Union a list of all positions that are considered trainee or developmental for RIF purposes, together with the SF-50s listing the name, position, and effective date of action assigning each incumbent to the position in question.
- c. The affected employees will be given a specific RIF notice at least 60 days prior to the effective date of the RIF. Retention Registers and other RIF documents will be made available to the affected employee.

3. Procedures and Appropriate Arrangements:

- a. When Management decides to implement a RIF, the Parties agree that RIF and Workforce Restructuring and Placement System (WRAPS) will be implemented simultaneously and that WRAPS is the procedure and appropriate arrangement for internal agency placement outside the competitive area. If either of the Parties at the intermediate or national level contends that a RIF situation is not conducive to the simultaneous use of WRAPS, the Parties agree to negotiate an alternative at the appropriate intermediate or national level.
- b. When RIF and WRAPS are implemented simultaneously:
 - (1) The RIF procedures will be used to identify the affected employees for RIF and the same employees will be the affected employees in WRAPS.
 - (2) RIF procedures will be used for placement of affected employees within the competitive area.
 - (3) WRAPS procedures will be used for placement of affected employees outside the competitive area, but RIF timelines will take precedence.
- c. The National Parties will be given an opportunity to negotiate on the implementation and impact of anticipated multiple RIFs that result from organizational change involving more than one region or station. The intermediate parties will be given an opportunity to negotiate on the implementation and impact of anticipated multiple RIFs that result from organizational change involving more than one local unit. For RIFs confined to one local unit, the Local parties will be given an opportunity to negotiate on the implementation and impact of RIF(s). The terms of the local or intermediate agreement reached must be approved by both parties at the intermediate level. The results of these local negotiations are not precedent setting. Further, if local negotiations include permissive rights, those

negotiations do not serve as the agency's election to negotiate permissive rights.

4. Early-Out Retirements in RIF: Management will request that USDA approve early-out retirements in a significant RIF. The Union will be given an opportunity to give input into the letter submitted to USDA.

5. Leave Without Pay During RIF: Management may, on a case-by-case basis, consider requests from employees who have received RIF notices for leave without pay (LWOP) up to a maximum notice period of 90 days of combined duty and leave status, following issuance of the notice, if such an extension will protect employee rights or avoid administrative hardship. Management may also consider requesting approval from OPM for an extension beyond 90 days when necessary to protect employee rights or to avoid administrative hardship. An amended notice includes the total number of days specified in the original notice plus the number of days of LWOP approved, not exceeding 90 calendar days after the delivery of the original notice. If the employee does not accept an offer of another Forest Service assignment, such LWOP may be canceled.

6. Personnel Files: The Union and Management will jointly encourage each employee to see that their personnel file and employee data/skills documents (such as, OF 612, resume, biographical sketch, etc.) are up to date as soon as the RIF or reorganization is announced. Management will add to the personnel file appropriate changes or amendments requested by the employee. Both the personnel file and data/skills documents will be used to match employees with vacancies. Employees possessing skills in more than one area will designate those area(s) in which they wish to be matched for consideration for vacancies.

7. Hiring Freezes During RIF: When a unit of the Forest Service determines that a RIF is necessary, a hiring freeze for the competitive area and competitive levels expected to be involved in the RIF will be implemented during the life of the RIF.

8. Competitive Areas and Competitive Levels:

- a. The Parties acknowledge that the current Federal Labor Relations Authority (FLRA) case law states that competitive areas are nonnegotiable. In the event the FLRA changes its position or is overruled, either Party may propose to negotiate changes to the competitive areas.
- b. The competitive areas that Management has determined it will use in the event of RIF will be listed in Appendix D.
- c. In the event Management determines to change the competitive areas listed in Appendix D, it will notify the Union sufficiently in advance to permit predecisional discussion and input, using interest-based problem solving in partnership to address issues related to planned changes to the above described competitive areas. In addition, Management will provide sufficient notice to permit appropriate bargaining under Article 11 related to the proposed changes to the competitive areas. Any changes to the competitive areas will be listed in Appendix D.
- d. d. Commuting area definition: When commuting areas are used to define competitive areas for RIF, they are defined as any population center, or two or more neighboring ones, and the surrounding localities in which people can reasonably be expected to travel back and forth daily. Under this definition, the standard commuting area will be 49 miles. The local or intermediate parties by mutual agreement may develop a different definition in place of the 49-mile standard commuting area under this section for employees within the management unit for which they have the authority to bargain under Article 11. They may seek assistance from the next higher level to reach agreement on a different definition. Before such agreements are finalized, they will be subject to joint review by the next higher (for example, intermediate) level. If

the parties fail to reach agreement or the next higher level Parties fail to concur with the agreement, the standard definition will be used.

- e. **Competitive level definition:** The Parties agree that OPM regulations fully define competitive level. If OPM regulations change, the definition of competitive levels will change accordingly. Employees are assigned to competitive levels based on their position of record. Currently, the competitive level generally consists of all positions in the same competitive area that are in the same grade (or occupational level) and classification series and that are similar enough in duties, qualification requirements, pay schedules, and working conditions so that the incumbent of one position could successfully perform the critical elements of any other position upon entry into it, without undue interruption.

9. Repromotion Rights: If Management determines to fill the same or essentially identical position, the involuntarily demoted employee will be offered repromotion to the position or to intervening grades for a period of 2 years from the effective date of the demotion. The employee will retain repromotion rights to the grade level from which they were demoted. For other vacancies within the commuting area with the same or essentially identical duties for which an involuntarily demoted employee qualifies, the employee will be offered repromotion to the vacancy unless there is a legitimate job-related reason for not repromoting the employee. In the event that more than one employee qualifies, the highest service computation date ranking employee will be offered repromotion first.

10. Reemployment Rights: Any employee separated through RIF will be offered reemployment to the first vacancy that Management determines to fill in the same commuting area for which the employee meets basic qualifications at the same or lower grade. If more than one separated employee is qualified for a particular vacancy, the offer will be made in retention standing order. If reemployment is below the employee's former grade level, the employee will have repromotion rights as provided in this Master

Agreement. Reemployment rights will be granted for a period of 2 years from the effective date of the RIF for career employees and 1 year from the effective date of the RIF for career conditional employees.